

1982 WL 189348 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 24, 1982

\*1 Mr. Cary D. Chamblee  
Land Resources Conservation Commission  
2221 Devine Street  
Suite 222  
Columbia, South Carolina 29205

Dear Mr. Chamblee:

You have requested the opinion of this Office on the question of whether a person currently serving as a member of the Horry County Planning Commission and as a member of the Myrtle Beach Convention Center Commission can be appointed to the office of Soil and Water Conservation District Commissioner without violating the dual office holding provisions of the South Carolina Constitution.

It is provided in [Article XVII, § 1A of the South Carolina Constitution](#) that ‘ . . . no person shall hold two offices of honor or profit at the same time. For this provision to be contravened, a person concurrently must hold two public offices which have duties involving an exercise of some portion of the sovereign power of the State. [Sanders v. Belue, 78 S.C. 171 \(1907\)](#). Other relevant considerations are whether statutes, or other such authority, establish the position, prescribe its tenure, duties or salary, or require qualifications or an oath for the position. [State v. Crenshaw, 266 S.E.2d 61 \(1980\)](#).

As you are aware, this Office has recently concluded that members of Soil and Water Conservation District Commissions hold offices for dual office holding purposes. See, Opinion of the Attorney General dated January 27, 1982 to F. Hall Yarborough (copy attached hereto). Therefore, the focus of this inquiry is upon whether positions on the Myrtle Beach Convention Center Commission or the Horry County Planning Commission are offices within the meaning of the Constitution.

My research on the Myrtle Beach Convention Center Commission reveals that this Commission is not created pursuant to State or local statutes. I have been informed by Mack Stone, the Director of the Myrtle Beach Convention Center, that the Convention Center Board is advisory only and does not have authority to make policy decisions or hire and fire employees. Since the Board does not exercise any of the sovereign power of the State, the members would not hold offices under the South Carolina Constitution.

The Horry County Planning Commission is created by the Horry County Council in Ordinance No. 4-79, filed September 17, 1979, pursuant to [§ 6-7-140 of the Code of Laws of South Carolina](#), 1976. It has the power, *inter alia*, to prepare a comprehensive plan for the development of its jurisdiction and review specific proposed developments to determine if they comply with the requirements of the plan. See also [§§ 6-7-310 et seq., Code of Laws of South Carolina](#), 1976. These powers involve an exercise of the sovereign power of the State and thus members of the Horry County Planning Commission would hold offices in the constitutional sense. This conclusion is in accordance with several recent opinions of this Office which have found that membership on other county planning commissions constitutes office holding. (See, opinions attached hereto).

\*2 Based on the foregoing, it is the opinion of this Office that a person may not serve concurrently on the Horry Soil and Water Conservation District Commission and the Horry County Planning Commission without violating the dual office holding provisions of the South Carolina Constitution.

Very truly yours,

Helen T. Zeigler  
State Attorney

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